

## RESOLUTION NO. SA-13-24

**A RESOLUTION OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT WITH FIRST SOUTHWEST COMPANY FOR FINANCIAL ADVISORY SERVICES RELATING TO THE POTENTIAL REFUNDING OF THE SERIES 2003A TAX ALLOCATION BONDS**

**WHEREAS**, the Imperial Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Imperial Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

**WHEREAS**, the City Council has adopted redevelopment plans for Imperial Beach's redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

**WHEREAS**, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

**WHEREAS**, Assembly Bill No. X1 26 (2011-2012 1<sup>st</sup> Ex. Sess.) ("AB 26") was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and the California Health and Safety Code ("Health and Safety Code"), including adding Part 1.8 (commencing with Section 34161) ("Part 1.8") and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the Health and Safety Code; and

**WHEREAS**, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

**WHEREAS**, the City Council of the City adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85 of AB 26, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

**WHEREAS**, on February 15, 2012, the Board of Directors of the Successor Agency, adopted Resolution No. SA-12-01 naming itself the "Imperial Beach Redevelopment Agency Successor Agency," the sole name by which it will exercise its powers and fulfill its duties pursuant to Part 1.85 of AB 26, and establishing itself as a separate legal entity with rules and regulations that will apply to the governance and operations of the Successor Agency; and

**WHEREAS**, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012). Although the primary purpose of AB 1484 was to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down process of former redevelopment agencies, including without limitation refunding or refinancing bonds or other indebtedness; and

**WHEREAS**, Health and Safety Code Section 34179 of AB 26 as amended by AB 1484 (collectively the "Dissolution Act") establishes a seven (7) member local entity with respect to each successor agency and such entity is titled the "oversight board." The oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in Health and Safety Code Sections 34179 through 34181 of the Dissolution Act; and

**WHEREAS**, pursuant to Health and Safety Code Section 34179.7 of the Dissolution Act, the California Department of Finance ("DOF") has issued a Finding of Completion to the Successor Agency; and

**WHEREAS**, on December 11, 2003, the former Redevelopment Agency and the Imperial Beach Public Financing Authority (the "Financing Authority"), a Joint Powers Authority of the City of Imperial Beach (the "City") and the former Redevelopment Agency, issued Tax Allocation Revenue Bonds, Series 2003A (the "Series 2003A TABs") secured by the former Redevelopment Agency's tax increment revenues as funding for the debt service obligations. The Series 2003A TABs were issued in order to finance redevelopment activities relating to improvements within the Original and Amended Redevelopment Project Areas ("Project Areas") including street improvements, public park capital improvements, construction of community facilities, and landscaping improvements, among others; and

**WHEREAS**, debt service on the Series 2003A TABs has been and is repaid solely with tax increment revenues generated within the Project Areas. As of June 5, 2013, the Series 2003A TABs are outstanding in the amount of \$17,965,000, with annual principal maturities ranging from June 1, 2014 through June 1, 2033. These principal bond maturities can be prepaid on December 1, 2013, and on any subsequent date thereafter, without a prepayment penalty. The Series 2003A TABs have interest rates ranging from 5.00% to 6.00%; and

**WHEREAS**, pursuant to the Dissolution Act, the Successor Agency may cause the refinancing or refunding of the Series 2003A TABs for debt service savings by issuing, or causing the issuance, of Property Tax Revenue Refunding Bonds (the "Refunding Bonds") in accordance with the Dissolution Act including, without limitation, Sections 34177.5 and 34180(b); and

**WHEREAS**, based on interest rates in the current market, refunding the Series 2003A TABs is projected to achieve annual debt service savings for the Successor Agency of an average of \$295,000 from fiscal year 2013-14 through 2032-33, and for a total of \$5.93 million. Accounting for the time value of money, the discounted present value savings are \$4.03 million, which is equivalent to 22.44% of the \$17,965,000 of the Series 2003A TABs to be refunded; and

**WHEREAS**, the Successor Agency desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the Series 2003A TABs at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

**WHEREAS**, in order to effectuate the refunding of the Series 2003A TABs, the Successor Agency desires to retain the services of First Southwest Company for debt financial advisory services, including without limitation the following: to advise and assist in formulating and/or executing a debt financing plan to accomplish the public purposes of the issuer such as minimizing the Successor Agency's total interest costs on outstanding debt; to advise on matters pertinent to the refunding of its Series 2003A TABs such as debt structure, marketing,

timing, credit enhancements, fairness of pricing, terms and credit ratings; and to serve the issuer in a fiduciary capacity representing the issuer's interests in negotiations with underwriters, rating agencies, banks, and other parties; and

**WHEREAS**, First Southwest Company is a debt financial advisory firm registered with the Securities and Exchange Commission (SEC) and with the Municipal Securities Rulemaking Board (MSRB) and has represented that it possesses the necessary qualifications to provide the services required by the Successor Agency; and

**WHEREAS**, the Successor Agency staff has authorized the preparation of a Professional Services Agreement (the "Agreement") to retain the services of First Southwest Company as a "Financial Advisor" to the Successor Agency and recommends the Successor Agency's approval relating to same; and

**WHEREAS**, pursuant to the Agreement, and subject to the below, First Southwest Company shall be compensated for work completed, not to exceed \$50,000 for basic services rendered under the Agreement and all accrued expenses. First Southwest Company would be compensated for additional services only upon prior written approval of the Successor Agency. According to the Agreement, if the Refunding Bonds are issued prior to March 1, 2014, payment to First Southwest Company for compensation and accrued expenses not to exceed \$50,000 will be made by the Successor Agency thru the Refunding Bonds Trustee/Escrow Agent and from the proceeds of the Refunding Bonds within thirty (30) calendar days of receipt of the invoice. However, in the unlikely event that the Refunding Bonds are not issued before March 1, 2014, payment to First Southwest Company for compensation and accrued expenses not to exceed \$19,000 is not contingent on the closing and bond issuance and will be made by the Successor Agency from available funds within thirty (30) calendar days of receipt of the invoice; and

**WHEREAS**, the non-contingent portion of First Southwest Company's proposed compensation in the amount not to exceed \$19,000 pursuant to the Agreement is \$4,000 above the \$15,000 threshold requirement to perform a formal competitive bid process for the procurement of professional services. Imperial Beach Municipal Code ("Municipal Code") Section 3.04.160(G) states that the City Council may waive the formal bid requirements for the procurement of professional services by resolution when it is necessary or convenient for the management of the City's affairs. (Ord. 2009-1084 § 2). Due to the unique nature of the services rendered and complexity of the proposed refinancing transaction, staff recommends that the Successor Agency waive any applicable formal bid requirements for the selection of First Southwest Company and to approve the Agreement and authorize the Executive Director to enter into the Agreement consistent with the authority provided to the City Council by Municipal Code Section 3.04.160(G); and

**WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the Imperial Beach Redevelopment Agency Successor Agency, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** Consistent with the authority provided to the City Council of the City pursuant to Municipal Code Section 3.04.160(G), the Successor Agency hereby waives any applicable formal bid requirements for the selection of

First Southwest Company based on the unique nature of the services to be rendered and the complexity of the proposed refinancing transaction and due to the necessity and convenience for the management of the Successor Agency's affairs in this matter.

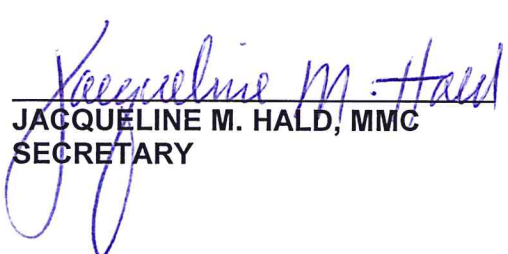
- Section 3.** The Successor Agency hereby approves the Professional Services Agreement ("Agreement") with First Southwest Company in substantial form as the Agreement attached as Exhibit "A", for bond financial advisory services for a total amount (i) not to exceed \$50,000 if the Refunding Bonds are issued prior to March 1, 2014, payment to First Southwest Company will be made by the Successor Agency thru the Refunding Bonds Trustee/Escrow Agent and from the proceeds of the Refunding Bonds; or (ii) not to exceed \$19,000 if the Refunding Bonds are not issued before March 1, 2014, payment to First Southwest Company will be made by the Successor Agency from available funds including Redevelopment Property Tax Trust Fund distributions pursuant to an approved Recognized Obligation Payment Schedule.
- Section 4.** The Executive Director, or designee, of the Successor Agency is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit "A", subject to the Oversight Board's approval of the Agreement as required by the Dissolution Act or desired by the Executive Director.
- Section 5.** The Executive Director, or designee, of the Successor Agency is hereby authorized to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the Executive Director of the Successor Agency and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.
- Section 6.** The Successor Agency determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.
- Section 7.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.
- Section 8.** This Resolution shall take effect upon the date of its adoption

**PASSED, APPROVED, AND ADOPTED** by the Imperial Beach Redevelopment Agency  
Successor Agency at its meeting held on the 5<sup>th</sup> day of June 2013, by the following vote:

<b>AYES:</b>	<b>BOARD MEMBERS:</b>	<b>SPRIGGS, BILBRAY, PATTON, BRAGG, JANNEY</b>
<b>NOES:</b>	<b>BOARD MEMBERS:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>BOARD MEMBERS:</b>	<b>NONE</b>

  
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**JAMES C. JANNEY**  
**CHAIRPERSON**

**ATTEST:**

  
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**JACQUELINE M. HALD, MMC**  
**SECRETARY**